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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,286	06/24/2003	Walter Douglas Bauman	60130-1705; 03MRA0130	1155

26096 7590 10/19/2004

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EXAMINER

SICONOLFI, ROBERT

ART UNIT PAPER NUMBER

3683

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/602,286

Applicant(s)

BAUMAN, WALTER DOUGLAS

Examiner

Robert A. Siconolfi

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

1. Amendment filed on 7/19/04 has been received.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taunay (U. t. Patent no. 4,679,841 ).

Taunay discloses:

Arm 9 with first segment between pivot point 8 and pivot point 19 and second segment between pivot point 13 and pivot point 19, gas spring 5 with two segments, hinge assembly 3, roller 17

Taunay does not disclose biasing the roller against the vehicle closure member. Taunay discloses biasing the roller against the vehicle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to bias the roller against the vehicle closure apparatus instead of the vehicle itself as such is merely a design choice. Both devices have the exact same function.

Regarding claims 5 and 14, the moment arm 13-19 is longer than the moment arm 8-19 as can be seen in figure 2. Additionally, applicant admits that the length of the moment arm is merely a design choice based on environmental factors and is therefore obvious to have any length of the moment arms (Paragraph 18 "Therefore, location of the pivot

22 relative to the hinge axis 44 is dependent on application specific parameters, such as member weight and size.").

### ***Response to Arguments***

4. Applicant's arguments filed 7/19/04 have been fully considered but they are not persuasive. Applicants argue that the biasing of the roller against the vehicle closure member is not a design choice. Applicants give no reason for this except to say there is no evidence. Examiner disagrees with these assertions. First, the suggestion that Taunay has to support that limitation is improper. If Taunay support that limitation, then the rejection would be based on 35 USC 102 not 35 USC 103. In order to match the limitation, the only modification needed would be to mount plate 10 to the car body and the gas spring at pivot 7 to the vehicle closure member.

Applicants argue that the roller is not attached to the arm 9. This is incorrect. The roller is attached to the arm 9. It is just not directly attached.

With regard to the pivot lengths, the second segment is clearly longer than the first segment as shown in figure 2 of Taunay.

With regard to opposite directions, the segments of arm 9 do extend in opposite directions. As seen in figure 2, 13 is to the left of the pivot 19 and 8 is to the right.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Siconolfi whose telephone number is 703-305-0580. The examiner can normally be reached on M-F 10 am-3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert A. Siconolfi

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Examiner  
Art Unit 3683

RS

*Robert A. Siconolfi* 10/16/04  
ROBERT A. SICONOLFI  
PATENT EXAMINER